

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14952 of Everlee G. Franks, pursuant to 11 DCMR 3107.2, for a variance from the minimum width and lot area requirements (Sub-section 401.3), and a variance from the side yard requirements (Sub-section 405.9) for the proposed construction of a medical clinic for humans in an R-5-A District at premises 2501 Alabama Avenue, S.E., (Square 5730, Lots 27, 28 and 29).

HEARING DATE: FEBRUARY 22, 1989
DECISION DATE: MARCH 1, 1989

FINDINGS OF FACT:

1. The subject site is comprised of three lots located on the east side of Alabama Avenue, S.E. where 25th Street merges with Alabama Avenue and is known as premises 2501 Alabama Avenue, S.E. The site is in an R-5-A District.

2. Across the street from the site is public open space and the E.L. Stanton public school, and a church.

3. The predominant uses within the vicinity of the site are residential and open space. Adjacent uses to the north and south of the site are row houses and garden/walk-up apartments. East of the site there is wooded open space. To the west are apartments and adjacent churches in between lots. Nearby zoning categories are C-1 and C-3-A.

4. Immediately to the south of the subject site there is a single-family residence. The driveway of this residence is located adjacent to the property line of the subject site.

5. Immediately to the north of the subject property there is an unimproved public alley which is accessible from Alabama Avenue. The alley, which is 20 feet wide and spans the entire north side of the subject property, feeds into another public alley with a dead end at the rear of the site.

6. The subject site is generally triangular in shape. The frontage of the site is located on Alabama Avenue and constitutes the base of the triangle measuring sixty-feet in width. The lot narrows almost to a point as it moves toward the rear to a depth of 200 feet. The topography of the lot

is steeper near the alley. The site is presently undeveloped.

7. The applicant proposes to construct a 1,902 square foot one-story medical clinic for humans. There will be at least two physicians, two administrative staff persons and one nurse working at the facility.

8. In the R-5-A District, minimum lot area and width of lot requirements are to be prescribed by the Board. Public facilities are permitted as a matter-of-right.

9. At present the lot measures 7,500 square feet and has an average width of 37.58 feet.

10. The applicant proposes that the building will front on Alabama Avenue and will be set back 37.5 feet from the sidewalk. Landscaping will be provided on the front.

11. At the north side of the building, the applicant proposes to provide parking spaces, pedestrian access to the clinic and landscaping. A side yard of 11 feet 3 inches is proposed for the north side of the structure while a side yard of 2 feet is proposed for the south side.

12. Pursuant to the Zoning Regulations, Sub-section 405.9, a minimum side yard of 8 feet is required. The applicant is, therefore, requesting a side yard variance of 6 feet for the south side of the site.

13. The applicant testified that the 2-foot side yard on the south was intentionally created to allow more room on the north side for his patients to park and walk from the side of the facility to the front entrance.

14. The Board considered the possibility of placing the building farther north, creating an 8-foot side yard to the north and a 5-foot side yard to the south, reducing the side yard variance request to 3 feet. The Board finds, however, that the present location planned for the structure is most appropriate given the fact that the building would otherwise be too close to the alley for safe pedestrian access to the building.

15. The applicant's proposal only provided for the three parking spaces that are required because it was his opinion that most of the patients will use public transportation. The Board suggested to the applicant that more spaces may be needed to accommodate the staff and patients who may use their own vehicles. The applicant offered to provide nine regulation size (9'x 9') parking spaces. The Board suggested that only seven spaces be provided to save room for greenery.

16. The applicant testified that there is an existing structure on the adjoining lot on the south side. A driveway is directly adjacent to the property line. There will be approximately 15 to 20 feet between the existing structure on the adjoining lot and the proposed medical building. To move the proposed building more than 5 feet from the property line on the south side will create a violation of the side yard requirements on the north. This creates a hardship for the applicant.

17. The Office of Planning (OP), by memorandum dated February 14, 1989, recommended that the application be approved. The OP was of the opinion that the triangular shape of the property created a practical difficulty for the owner in situating the building on the lot. It was also indicated that the size of the lot, 7,500 square feet with an average width of 37.85 feet, compares favorably with the lot size prescribed for the R-4 District which is a more restrictive zone. The size of the property is, therefore, suitable for the proposed use. The OP suggested, however, that the possibility of moving the structure 3 feet to the north, thereby reducing the amount of variance needed, should be explored. The Board is in agreement with the recommendation of the OP, but disagrees with moving the structure.

18. Advisory Neighborhood Commission (ANC) 6C, by letter dated February 7, 1989, and through testimony at the hearing, opposed the granting of the application. The ANC based its opposition primarily on the fact that the applicant failed to present his proposal to the ANC, thus showing a disregard for the community. The ANC was also concerned that the proposed building would be too close to the existing structure on the adjacent lot, especially since there would be nothing to screen the medical building from the residence next door.

19. The ANC expressed concern that the area was too congested for a building of this size on such a small lot. Also, use of the proposed facility will contribute to the traffic congestion in the area because not all of the applicant's patients will use public transportation.

20. The ANC requested that the Board delay its decision on the application until the applicant meets with the ANC on the proposal.

21. Failure of the ANC and the applicant to meet is not an issue for the Board. Both parties had adequate notice of the hearing and ample opportunity to contact each other.

22. The Board finds that since the structure on the adjoining property will be approximately 15 to 20 feet from the proposed structure, there will be no adverse impact and the intent, purpose and integrity of the Zoning Regulations will not be impaired.

23. The record contains two letters of opposition from people who have interests in nearby properties. The record also contains a petition signed by several neighbors who oppose the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has met this burden of proof. The Board concludes that the unique, triangular configuration of the subject lot creates a practical difficulty for the owner in his attempt to construct a building and comply with the requirements of the Zoning Regulations. The Board concludes that because of the steep topography on the north side, it would be best to put the landscaping there and place the building closer to the south. This would also allow for more parking spaces and would provide safer and easier access to the clinic because the building would not be located so close to the alley. The Board concludes that locating the proposed structure 15 to 20 feet from the adjoining structure eliminates any adverse impact thereon.

The Board further concludes that the size of the lot is suitable for the proposed use.

The Board concludes that locating the proposed structure 15 to 20 feet from the adjoining structure eliminate any adverse impact thereon. The Board concludes that the requested relief may be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board has accorded the ANC "great weight" to which it is entitled. accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 4-1 (Charles R. Norris, Maybelle Taylor Bennett, Paula L. Jewell and Carrie L. Thornhill to grant; William F. McIntosh opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

JUL 28 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14952order/BHS6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14952

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated JUL 28, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Dr. Everlee G. Franks
3230 Pennsylvania Avenue, S.E., #204
DC 20020

Mr. Edward M. Johnson
3612 - 12th Street, N.E.
DC 20017

Jacqueline B. Shillings
2433 Wagner Street, N.E.
DC 20020

Clifton Chambers, Chairperson
Advisory Neighborhood Commission 6-C
2041 Martin Luther King Jr. Ave., S.E.
Suite 300
Washington, D. C. 20020

A handwritten signature in dark ink, appearing to be "ELC", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: JUL 28

attestation/BHS6